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DEPARTMENT OF LABOR & ECONOMIC GROWTH  
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## **BILL ANALYSIS**

**BILL NUMBER:** House Bill 4302  
**TOPIC:** Commercial Lines Filing Exemption  
**SPONSOR:** Rep. Paul Condino  
**CO-SPONSORS:** Rep. Bieda and Gonzales  
**COMMITTEE:** Committee on Insurance  
**Analysis Done:** March 21, 2007

### **POSITION**

The Office of Financial and Insurance Services is neutral regarding this legislation.

### **PROBLEM/BACKGROUND**

PA 664 of 2002 (the Act) exempted commercial lines insurance policies and rates from the rating standards found in the Code and from any filing requirements found in MCL 500.2236, 2401, and 2601. Commercial lines insurance companies who agreed to place on their policy forms a disclaimer that notified insureds that their policy was exempt from these filing requirements, would not have to file their policy forms and rates for approval by the Commissioner. The action was taken to place Michigan on track with a national trend that recognized that greater flexibility for insurers was warranted due to the specialized nature of commercial lines policies and the greater level of sophistication that exists with those buying these products.

In some respects, the changes made by P.A. 664 also codified agency practice, as outlined in Bulletin 97-03, issued by then Commissioner Joseph Olson, which exempted commercial lines insurers from the form filing requirements found in MCL 500.2236.

Since the Act went into effect on March 31, 2003 commercial insurance policies and rates are not subject to mandatory review by the Office of Financial and Insurance Services. The division within OFIS that reviews rate and form filings has seen their filings drop from 7,505 filings in 2001 to 4,083 in 2006. Approximately half of the 2006 filings were placed on file without review. These filings would have been commercial rate and form filings not exempt from the law or those forms and rates insurance

companies want to file even though not required to do so. Prior to implementation of the law and the exemption bulletin, there were approximately nine analysts reviewing forms and rates. There are currently five analysts who review rates and forms. Most of their time is allocated to the review of personal lines filings such as homeowners, private passenger auto, workers' compensation, Medicare supplement, Long-term care, motorcycle, and recreational vehicles.

## **DESCRIPTION OF BILL**

House bill 4302 removes language from MCL 500.2236, 2401, and 2602 that exempts commercial policy forms and rates from filing requirements. The legislation also removes the requirement that the exempted forms contain a disclaimer to notify an insured that their policy form and rates have not been reviewed by the Commissioner for compliance with appropriate statutes.

## **SUMMARY OF ARGUMENTS**

### **Pro**

Supporters of this legislation believe that market forces have not served to make commercial lines policies more affordable or increased availability in Michigan. They argue that giving OFIS back the authority to review rates and forms would help control the cost of the policies.

Those purchasing medical malpractice insurance policies have questioned the public policy behind exempting medical malpractice policies from rate and form review. Given the critical nature of access to affordable medical malpractice insurance to a vibrant, diverse health care system in Michigan, some have argued that any steps that can be taken to reduce the cost of medical malpractice insurance rates are worth exploring.

Exempting commercial insurers from the rating standards found in the Code took Michigan out of the mainstream. Even if rates and forms aren't filed, insurers should be required to adhere to the relevant rate development standards found in the Code.

### **Con**

Most commercial rate filings are submitted on a file and use basis. Many are not filed at all. The net effect of this is that insurers begin using the filed rates before OFIS staff reviews them. In order to challenge a filed rate, an analyst must first review actuarial data submitted to support the filing, and then make a determination concerning the accuracy of the information. If the rates or information are found to be inadequate, excessive, or unfairly discriminatory OFIS must then give the company written notice and hold a hearing. This process is rarely used since most rate filings can be actuarially justified and the Code provides has no other means to deny a filed rate. The

commissioner's authority to disapprove a commercial rate filing is very limited by the current language found in MCL 500.2403 and 2603 of the Michigan Insurance Code.

Repealing the exemption for filing of rates for commercial lines policy forms would run counter to the national trend in many states, including Michigan, to permit greater flexibility in commercial lines rate setting. Over the past few years 32 states have adopted some form of commercial rate and form deregulation. The exemption from filing requirements allows commercial insurance companies to more accurately price policies for risks that contain unique characteristics and don't fit into the standard rating plans. Because commercial lines policy purchasers are generally considered to be more sophisticated than personal lines policy purchasers, many public policymakers have decided it makes better sense to focus limited resources on the personal lines.

### **FISCAL/ECONOMIC IMPACT**

OFIS has identified the following revenue or budgetary implications in the bill as follows:

- (a) To the Office of Financial and Insurance Services:

Budgetary: OFIS would have to hire additional staff to review rate and form filings. Actuarial services would also be required to be retained to review rate filings.

Revenue:

Comments:

- (b) To the Department of Labor and Economic Growth: None

Budgetary:

Revenue:

Comments:

- (c) To the State of Michigan: None

Budgetary:

Revenue:

Comments:

- (d) To Local Governments within this State: None

Comments:

## **OTHER STATE DEPARTMENTS**

None

## **ANY OTHER PERTINENT INFORMATION**

Thirty-two states have initiated some form of rate and form deregulation for commercial lines insurance policies. The national trend is toward commercial lines deregulation in order to make filing requirements more uniform among the states.

The majority of companies that write commercial lines policies subscribe to one of the commercial lines rating organizations. The rating organizations create policy forms and file them on behalf of the commercial carriers which means that these companies don't have to file their own forms, unless they want to put on file an amendment to the rating organization's forms. The rating organizations also develop loss costs for these companies to use. The company then files a multiplier that is applied to the rating organization filed rates to indicate what their rates will be. However, it should be noted that subscribers are not obligated to use these forms or the loss cost data, and many develop their own rates.

## **ADMINISTRATIVE RULES IMPACT**

OFIS does have rulemaking authority under the Insurance Code, 1956 PA 218.



Linda A. Watters  
Commissioner

March 21, 2007  
Date